

Notice of Allowability

Application No.

09/788,671

Applicant(s)

FOREMAN ET AL.

Examiner

Raymond J. Bayerl

Art Unit

2173

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to papers filed 13 October 2004.
2. ☒ The allowed claim(s) is/are 1165 - 1174, 1288 - 1297, all other claims canceled.
3. ☒ The drawings filed on 04 April 2005 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 23 Dec04, 11 Mar05
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

RAYMOND J. BAYERL
PRIMARY EXAMINER
ART UNIT 2173

7 June 2005

Art Unit: 2173

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

2. The application has been amended as follows:

In the Specification:

Page 1, line 19—"Now U.S. Patent No. 6,201,037," has been inserted after "1989,";

Page 1, line 20—"Now U.S. Patent No. 6,494,702," has been inserted after the first occurrence of "1995,";

Page 1, line 20—"Now U.S. Patent No. 6,206,673," has been inserted after the second occurrence of "1995,";

Page 1, line 21—"Now U.S. Patent No. 6,730,244," has been inserted after "1995,";

Page 1, line 21—"Now U.S. Patent No. 6,105,925," has been inserted after the first occurrence of "1997,";

Page 1, line 21—"Now U.S. Patent No. 6,086,799," has been inserted after the second occurrence of "1997,";

Page 1, line 22—"Now abandoned," has been inserted after "1997,".

The above Examiner's amendment was made to update the patented status of the several U.S. applications indicated as being relevant in the specification.

3. The following is an examiner's statement of reasons for allowance:

Upon reconsidering the application in view of applicant's 13 October 2004 response, the Examiner is willing to agree that the overall specification as filed is

Art Unit: 2173

suitable for use in support of the claimed invention, since it provides the total context in which prescriptions are received and job tickets are generated for the fabrication of eyeglass lenses.

The Examiner also agrees that claims 1165 – 1174, 1288 – 1297 as amended are no longer taught nor suggested by the prior art now made of record. Specifically, in the environment of “an eyeglass lens forming apparatus” (sole independent claim 1165 quoted), applicant’s admission as to prior art in view of Saigo et al. (US #5,485,399) do not render obvious the generation of “job tickets”, these being “readable by one or more monitoring devices”, once the “menu items” have been used “to collect prescription information from the user”. At best, Saigo makes a direct transmission of data containing prescription information to second computer, but without an actual “job ticket” that is “readable” in the sense that applicant’s “job tickets” are.

In considering the prior art that has now been made of record, the Examiner’s attention was drawn to the Techna Vision reference (EP Application #0 318 164 A2), in which job tickets **are** involved in the handling of an order in a lens forming system. At page 13, lines 19 – 24, Techna Vision teaches that a job ticket 212 (Fig. 1) is printed out by a printer 214. Closer study, however, reveals that the ticket 212 will be placed in the work tray (not shown) which will hold the finished lenses and be carried to the section of the optometrist’s laboratory to trim the edge of the lenses and place them in frames. Thus, the “job ticket” in Techna Vision is not one that is “readable by one or more monitoring devices”, but instead, simply provided as a cue to human practitioners.

Another disclosure of interest when it comes to the matter of signaling via bar codes, lasers, and the like is the Innotech reference (WO #98/28126), where An optical sensor or bar code-scanning wand 31 facilitates the automatic entry of pertinent information into the system (page 5, lines 14 – 20). However, Innotech only envisions this information being used for such information as resin and lens material data, that is relevant to the processing parameters of the lenses, and thus the bar code cannot be reasonably interpreted as containing a “job ticket” originated from a user “menu”.

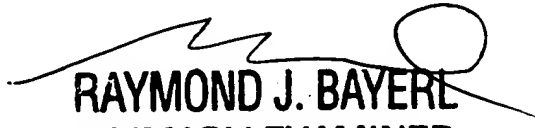
As a final matter, the Examiner noted Yancy (US #6,848,789 B1) in an update search as being relevant for using a menu display interface for obtaining the parameters of a lens order (see fig 14). Yancy, however, shares the difficulty with Saigo; that a “job ticket” that is “readable by one or more monitoring devices” is not generated within the system.

4. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.”
5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raymond J. Bayerl whose telephone number is (571) 272-4045. The examiner can normally be reached on M - Th from 9:00 AM to 4:00 PM ET.
6. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Cabeca, can be reached on (571) 272-4048. All patent application

Art Unit: 2173

related correspondence transmitted by FAX **must be directed** to the central FAX number (703) 872-9306.

7. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-2100.


RAYMOND J. BAYERL
PRIMARY EXAMINER
ART UNIT 2173

7 June 2005